

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
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| ALLEGED FAILURE OF AIRNEX |) | CASE NO. |
| COMMUNICATIONS, INC., TO FILE REQUIRED |) | 2011-00331 |
| REPORTS |) | |

O R D E R

KRS 278.140 requires each utility to file, on or before March 31 of each year, a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year. Based upon these reports, the Commission, pursuant to KRS 278.150, certifies to the Department of Revenue and the Finance and Administration Cabinet the intrastate revenue so collected. The Department of Revenue, pursuant to KRS 278.130 and for the purpose of maintaining the Commission, then assesses each utility in proportion to its receipts from intrastate business for the preceding calendar year. KRS 278.990 provides penalties for utilities that fail to file the required reports.

Airnex Communications, Inc. ("Airnex Communications") transmits or conveys over wire, in air, or otherwise, messages by telephone for the public for compensation in the Commonwealth of Kentucky. It is, therefore, a utility subject to Commission jurisdiction.¹

¹ KRS 278.010(3)(e)

KRS 278.990(1) states that any utility which willfully violates any provision of KRS Chapter 278 or any Commission regulation shall be subject to a civil penalty not less than \$25.00 and not more than \$2,500.

On December 15, 2010, the Commission provided to Airnex Communications the standard forms for the report of gross earnings from intrastate business for the 2010 calendar year. According to Commission records, Airnex Communications has yet to file its Long Distance Carrier gross operating reports for the 2007 and 2010 calendar years with the Commission. The absence of these reports from Commission records constitutes *prima facie* evidence that Airnex Communications has willfully failed to comply with KRS 278.140.

IT IS THEREFORE ORDERED that:

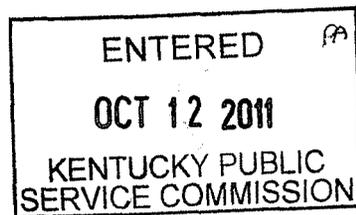
1. Airnex Communications shall file with the Commission, no later than October 20, 2011, its Long Distance Carrier gross operating reports for the 2007 and 2010 calendar years.

2. Airnex Communications shall appear on October 27, 2011, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of showing cause why it should not be subjected to the penalties of KRS 278.990 for its failure to comply with KRS 278.140.

3. In the absence of such showing, and without further Order, Airnex Communications' authorization to provide service shall be revoked, its tariff shall be removed from the Commission's files, and its name shall be stricken from the Commission's list of active utilities.

4. If Airnex Communications desires to waive its right to a hearing in this matter, it shall, no later than October 20, 2011, file the required reports and pay a penalty of \$250. Payment of the penalty shall be made by certified check or money order made payable to the Treasurer, Commonwealth of Kentucky, and shall be delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602-0615.

By the Commission



ATTEST:



Executive Director

Arnold Marasigan
Airnex Communications, Inc.
5000 Hopyard, Suite 240
Pleasanton, CA 94577